

**MILITARY RETIREMENT TAX AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Candice B. Pierucci**

Senate Sponsor: Wayne A. Harper

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**LONG TITLE**

**General Description:**

This bill creates a nonrefundable income tax credit for military retirement pay.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates a nonrefundable income tax credit for military retirement pay; and
- ▶ provides for apportionment of the income tax credit.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**59-10-1002.2**, as last amended by Laws of Utah 2016, Chapter 263

ENACTS:

**59-10-1042**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **59-10-1002.2** is amended to read:

**59-10-1002.2. Apportionment of tax credits.**



28 (1) A nonresident individual or a part-year resident individual that claims a tax credit  
29 in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023,  
30 59-10-1024, [or] 59-10-1028, or 59-10-1042 may only claim an apportioned amount of the tax  
31 credit equal to:

- 32 (a) for a nonresident individual, the product of:
  - 33 (i) the state income tax percentage for the nonresident individual; and
  - 34 (ii) the amount of the tax credit that the nonresident individual would have been  
35 allowed to claim but for the apportionment requirements of this section; or
- 36 (b) for a part-year resident individual, the product of:
  - 37 (i) the state income tax percentage for the part-year resident individual; and
  - 38 (ii) the amount of the tax credit that the part-year resident individual would have been  
39 allowed to claim but for the apportionment requirements of this section.

40 (2) A nonresident estate or trust that claims a tax credit in accordance with Section  
41 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an  
42 apportioned amount of the tax credit equal to the product of:

- 43 (a) the state income tax percentage for the nonresident estate or trust; and
- 44 (b) the amount of the tax credit that the nonresident estate or trust would have been  
45 allowed to claim but for the apportionment requirements of this section.

46 Section 2. Section 59-10-1042 is enacted to read:

47 **59-10-1042. Nonrefundable income tax credit for military retirement pay.**

48 (1) As used in this section:

49 (a) (i) "Military retirement pay" means retirement pay, including survivor benefits, that  
50 relates to service in the armed forces, including service in the Reserves or the National Guard.

51 (ii) "Military retirement pay" does not include:

52 (A) social security income; or

53 (B) 401(k) or IRA distributions.

54 (b) "Survivor benefits" means the retired pay portion of the benefits described in 10  
55 U.S.C. Secs. 1447 through 1455.

56 (2) Except as provided in Section 59-10-1002.2, a claimant who receives military  
57 retirement pay may claim a nonrefundable tax credit against taxes equal to the product of:

- 58 (a) the percentage listed in Subsection 59-10-104(2); and

59           (b) the amount of military retirement income that is included in adjusted gross income  
60 on the claimant's federal income tax return for the taxable year.

61           (3) A claimant may not carry forward or carry back the amount of the tax credit that  
62 exceeds the claimant's tax liability for the taxable year.

63           Section 3. **Retrospective operation.**

64           This bill has retrospective operation for a taxable year beginning on or after January 1,  
65 2021.